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'Big Victory': CHD Lawsuit Alleging Key Biden Officials Colluded With Tech Giants to Censor Free Speech Consolidated With Missouri Censorship Case

The two lawsuits — Kennedy et a. v. Biden et al., a class action suit, and Missouri et al. v. Biden et al. — were both before the same judge, Terry A. Doughty, of the U.S. District Court for the Western District of Louisiana Monroe Division.

By Michael Nevradakis, Ph.D.

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CENSORSHIP

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A federal judge on Monday consolidated two ongoing lawsuits alleging the Biden administration worked with social media platforms to censor online speech.

The two lawsuits — Kennedy et al. v. Biden et al., a class action suit, and Missouri et al. v. Biden et al. — were both before the same judge, Terry A. Doughty, of the U.S. District Court for the Western District of Louisiana Monroe Division.

In his five-page decision, Doughty rejected the argument put forth by some of the plaintiffs in the Missouri v. Biden lawsuit that consolidation with the Kennedy v. Biden lawsuit would "politicize" the case. "This Court does not decide cases based on politics, but based on the United States Constitution," Doughty wrote.

Doughty ruled the two cases would be consolidated "for all purposes," including discovery of evidence.

Reacting to Doughty's ruling, Robert F. Kennedy Jr., a plaintiff in the class action lawsuit and chairman on leave from Children's Health Defense (CHD), said:

> "What we've witnessed over the past three years is the most intense assault on free speech in the history of our nation. Consolidating these two cases is a turning point, allowing us to better determine exactly how such massive censorship was formulated and executed so we can prevent it from ever happening again."

Kim Mack Rosenberg, acting general counsel for CHD, told The Defender:

> "CHD is excited to have its case consolidated with an undoubtedly important case and looks forward to continuing to stand up for what we believe are critical First Amendment rights that defendants in these cases have put at risk.
>
> "One of the benefits — to the court and the parties — would be the consolidation of discovery in the two matters. While there has been substantial discovery in the Missouri case, there likely will be considerable discovery in both cases going forward.
>
> "Consolidation allows the Kennedy plaintiffs to participate in consolidated discovery with the Missouri plaintiffs and other proceedings and in, as Judge Doughty recognized, a consolidated trial. There is no doubt a commonality of interests between the plaintiffs in the two cases."

"This is a big victory," said Jed Rubenfeld, an attorney representing the plaintiffs in Kennedy v. Biden, who noted the importance of the two cases sharing in the discovery process.

Missouri v. Biden was filed in May 2022 by the attorneys general of Missouri and Louisiana and several individual plaintiffs, including Jay Bhattacharya, M.D., Ph.D., Martin Kulldorff, Ph.D., Aaron Kheriaty, M.D., and Jill Hines. The suit alleges the federal government violated the First Amendment free speech clause by suppressing speech on social media platforms.

On July 4, Doughty issued an injunction in that case, barring several federal agencies and members of the Biden administration from communicating with social media companies. The defendants appealed to the 5th Circuit U.S. Court of Appeals, which issued a temporary administrative stay pending oral arguments, scheduled for Aug. 10.

Plaintiffs in Kennedy v. Biden, which was filed March 24, include Kennedy, CHD and Connie Sampognaro, a healthcare professional based in Louisiana.

The suit alleges the defendants "waged a systematic, concerted campaign" to compel the nation's three largest social media companies to censor constitutionally protected speech.

The defendants are the same in both cases and include President Joe Biden, White House Press Secretary Karine Jean-Pierre, Surgeon General Vivek H. Murthy, Secretary of the Department of Health and Human Services Xavier Beccera, the U.S. Department of Justice, the FBI, Dr. Anthony Fauci, the National Institute of Allergy and Infectious Diseases and the Centers for Disease Control and Prevention.

Consolidation of the two cases will allow Kennedy and CHD to participate in the scheduled 5th Circuit proceedings.

'No doubt' there are common legal and factual issues

Rosenberg noted that Doughty's ruling recognized the many similarities and parallels between the two lawsuits:

> "Judge Terry Doughty's decision to consolidate Kennedy v. Biden with Missouri v. Biden recognizes that there is, in Judge Doughty's words, 'no doubt' that there are common legal and factual issues between the two cases, which even share a commonality of defendants.
>
> "Here, both cases were pending in the same district court and assigned to the same judge. It is difficult to argue that judicial resources won't be preserved by consolidating. As the court recognized, while Missouri v. Biden was filed well before Kennedy v. Biden, both cases are at a similar place — with a preliminary injunction granted in Missouri and a preliminary injunction motion pending in Kennedy."

This mirrors arguments put forth by the plaintiffs' attorneys, G. Shelly Maturin II and Rubenfeld, in a July 22 memorandum submitted to the Louisiana court in support of consolidating the cases.

The attorneys argued that the two cases are "almost factually identical" but with one legally significant difference between them: while in Missouri v. Biden the plaintiffs are two states and several individuals, in the Kennedy v. Biden case, CHD is a nationwide organization "representing over 70,000 consumers of health information nationwide."

And while the Missouri v. Biden plaintiffs are "censored speakers," the memorandum noted, CHD is "resting its claims on the First Amendment right to receive information and ideas," and "is thus ideally positioned to ask for a nationwide injunction," regardless of "which particular individuals' speech the Government is silencing."

According to Doughty's ruling, defendants in Missouri v. Biden indicated "no opposition to the Motion to Consolidate if standing is established by the Plaintiffs in Kennedy v. Biden."

The plaintiff states of Missouri and Louisiana also filed a notice of non-opposition to the consolidation ruling.

Concerns over 'politicization'

The individual plaintiffs had filed a memorandum opposing the motion to consolidate on July 19.

Doughty explained the concerns raised by two of the Missouri v. Biden plaintiffs, writing:

> "The individual Plaintiffs oppose consolidation because the two cases are not on the same stage of preparation for trial and because of concern that Kennedy's candidacy for President of the United States could prejudice the Individual Plaintiffs through politicization of the case."

Admitting that the two cases are not at the same stage, Doughty said this should nevertheless "not result in delay to any party."

Doughty wrote:

> "This Court will not rule on the preliminary injunction in Kennedy v. Biden until after a ruling by the Fifth Circuit and/or the Supreme Court of the United States on the preliminary injunction in Missouri v. Biden; that will keep the consolidation from complicating the matter on appeal and will likely result in a more streamlined resolution of the preliminary injunction in Kennedy v. Biden."

Regarding the two plaintiffs' concerns over "political wrangling" and a "tabloid atmosphere," and that "consolidation would likely result in disagreements between counsel for Plaintiffs," Doughty wrote:

> "This Court does not decide cases based on politics, but based on the United States Constitution.
>
> "Further, any prejudice due to disagreements of counsel do not outweigh the other factors. That is a common problem in any case where attorneys represent different parties with different interests, and thus, it does not create undue prejudice here."

Lawyers for the plaintiffs in Kennedy v. Biden wrote in their July 22 memorandum that they "deeply regret the position taken by the [individual plaintiffs in Missouri v. Biden], for whom Plaintiffs have the utmost respect," but that "the notion that Missouri v. Biden is currently a non-political case, and that Mr. Kennedy's name on the caption of a consolidated case would be the thing that politicizes it, is hard to take seriously."

They also noted that far from "politicizing" the case, Kennedy's involvement in a consolidated case would be significant, because he "has been as much a victim of the Government's censorship campaign as any of the [independent plaintiffs] and has stood with them at every turn and passionately defended their claims."

Judge: Consolidation 'is plainly appropriate'

Doughty offered his reasons for supporting the consolidation of the two cases, writing that "Most of the factors" [in the case] weigh in favor of consolidation:

> "The issue of suppression of free speech by the government by coercing and/or significantly encouraging social media platforms is the same. Both cases involve the exact same Defendants and are pending in the same district and division before the same judge.
>
> "Under well-established law … consolidation is plainly appropriate here [and] is virtually mandated, given the manifest waste and inefficiency duplicate discovery, motions practice, and trial would cause. … Both cases could be tried together, which would avoid the time and expense of two separate trials."

Doughty explained that "If additional discovery were allowed, consolidation would allow the discovery to be conducted together."

According to Doughty, while oral arguments in Missouri v. Biden are scheduled for Aug. 10, no trial date has been scheduled. A ruling has also not yet been made on the standing and the preliminary injunction issues in Kennedy v. Biden, he said.

Doughty also noted that he deferred ruling on the motion to consolidate until after ruling on other motions that were pending in Missouri v. Biden, including the motion for preliminary injunction he granted on July 4.

The Defender on occasion posts content related to Children's Health Defense's nonprofit mission that features Mr. Kennedy's views on the issues CHD and The Defender regularly cover. In keeping with Federal Election Commission rules, this content does not represent an endorsement of Mr. Kennedy, who is on leave from CHD and is seeking the Democratic nomination for president of the U.S.

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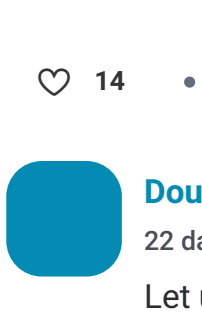

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Douglas Jack
22 days ago

Let us applaud Robert F Kennedy Jr, not only for standing up for Free Speech for everyone, but as well his due-diligence in openly meeting with those he both agrees & disagrees with in Debate. RFKJr is exemplifying the very 'dialectic' ('both-sided') principle & key practice of RESPONSIBLE SPEECH in Media, Medicine & Law. Media & Medicine both derive from the same Latin word root 'Medium' meaning 'middle' as in expressing & balancing all sides. To enjoy Free Speech, both sides must be given the formal opportunity in every communication to respond to statements made & actions taken.
The only constraints on Free-Speech are Libel, Defamation, Slander, Misrepresentation. However if the targeted person or body is given the opportunity to express themselves, equal to the statement made, then Censorship of Free Speech or constraints do not apply. If the original published statement is extensive with associated parts, then the targeted person or body are best offered a formal opportunity to respond in a Both-sided, Equal-time, Recorded & Published Debate where each point made is given reciprocal opportunity for response. One of the best actions which every person can take in order to get Bobby elected President is to mimic his open debate practices & principles in our own lives, work & home places. As supporters exemplify Bobby's openness & rigour, then all 'parties' will know their truths & perspectives have a place. BOTH-SIDES-NOW is an easy to use dialogue process. https://sites.google.com/si...

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irishtap ↪ Douglas Jack
21 days ago

This is excellent, perfectly reasoned, detailed and balanced. Thank you for your insight.

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Spevy
22 days ago

America knows they are guilty..

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Larry DeMarco ↪ Spevy
22 days ago

Hopefully true, but who knows what will be the residual affect of the government's and mainstream media's insidious censorship and lies that have brainwashed the public for years and has caused them to fail to think and reason for themselves.

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Gary Brown
22 days ago

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shorebird
22 days ago

Nice clear outline of key differences, thanks!

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George Washington
22 days ago

Congrats!!! Big Time. RFK Jr is fighting for America and Americans! Let's make him our next president!

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Jerry Alatalo
22 days ago

First Amendment
Constitution of the United States
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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kris
22 days ago

There should be a class action lawsuit for all employers in America who were lied to by the fda and cdc... the people at the fda and cdc lied to those employers and jeopardized and crippled their whole workforce! The insurance companies should sue too- small businesses ... all the employers need to fight back this is a joke how slow moving is this?!?!

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Greg Hill
22 days ago edited

I'm sure the fact that both Bhattacharya and Kulldorff are certain that the entire CDC-recommended children's vaccination schedule is completely safe and effective, and therefore should not be publicly questioned by anybody (because that, of course, would count as public health-harming "disinformation") has nothing at all to with their objection to consolidating the two cases.

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NikkiB
18 days ago edited

I truly hope this does something to curtail the attack on free speech that is essential to combat tyranny. Unfortunately, at the same time that this case was announced and a federal court dealt a blow to the Biden administration, there is news that a medical journal has now taken away any and or all evidence from its writings linking the vaccines to deaths and or injuries, which is something we could tell all along was the agenda. They wanted everyone to believe this manufactured virus was so deadly to get us to take these injections and then mysteriously they were already creating new disease developments to explain the virus rather than the injection. They set up an elaborate system to profit from all the new diseases they would say were linked to long Covid. But, we have Bill Gates on record admitting that Covid was not so deadly, so that must make it true right? These people only will own up to a thing when all evidence showing they are connected with it financially and or by distorting the truth of their connections to all these things has been taken away. Bill Gates seems to think he has gotten away with it.

People do realize that this is what they do right? How is it that suddenly after children had been taking all these new injections over the years that there is a verifiable and continued rise in allergies, asthma, autism and other neurological and endocrine conditions, and we just cannot possibly link this directly with the rise in these vaccines over the years, but

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Warren
22 days ago

Didn't Dr Shiva already win this lawsuit? RFK jr should debate him instead of ducking.

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